

EXHIBIT N

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Government,

HONORABLE GEORGE CARAM STEEH

v.

No. 12-20064

YAZAKI CORPORATION,

Defendant.

_____/
GUILTY PLEA AND SENTENCING HEARING

Thursday, March 1, 2012

- - -

APPEARANCES:

For the Government:

SHANE CRALLE, ESQ.
Assistant U.S. Attorney

For the Defendant:

JOHN M. MAJORAS, ESQ.

- - -

To Obtain Certified Transcript, Contact:
Ronald A. DiBartolomeo, Official Court Reporter
Theodore Levin United States Courthouse
231 West Lafayette Boulevard, Room 238
Detroit, Michigan 48226
(313) 962-1234

Proceedings recorded by mechanical stenography.
Transcript produced by computer-aided transcription.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

	<u>Page</u>
Guilty plea and sentencing hearing	4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

E X H B I T S

<u>Identification</u>	<u>Offered</u>	<u>Received</u>
-----------------------	----------------	-----------------

N O N E

Detroit, Michigan

Thursday, March 1, 2012

- - -

THE CLERK: Case Number 12-20064, United States of America versus Yazaki Corporation.

THE COURT: Good morning.

Ms. Hellings, do you want to state your appearance?

MS. HELLINGS: Ms. Hellings for the government. My colleague will do most of the talking.

THE COURT: All right. I see.

MR. CRALLE: Good morning. Shane Cralle for the United States.

THE COURT: Good morning.

MR. MAJORAS: Good morning. John Majoras for Yazaki Corporation from the Jones and Day law firm, and I have with me today Mr. Takao Soeda, who is the senior managing director of Yazaki Corporation, and the company's representative.

THE COURT: Okay. Good morning. All right.

Would you like to approach the podium?

The Court has been presented today with a proposed Rule 11 plea agreement, and -- oh, we do have an interpreter.

12-20064; USA v. YAZAKI CORPORATION

1 Would you like to step up, ma'am? We're going to
2 have two interpreters working today. So I suppose both of
3 you should be sworn in.

4 Would you each raise your right hands, and ask you
5 initially identify yourselves, please.

6 **INTERPRETER NO. 1:** Keiko Olsen.

7 **INTERPRETER NO. 2:** Izumi Suzuki.

8 **THE COURT:** Go ahead.

9
10 (Interpreters sworn in by deputy clerk.)

11
12 **THE COURT:** Okay.

13 **MR. MAJORAS:** Your Honor, if I may on the
14 interpreter, Mr. Soeda's first language is, of course,
15 Japanese, but he does speak English. He has assured me
16 that he is comfortable proceeding in English, but if there
17 are points in the proceeding in which he would like a
18 translation, that's why we would like to have translators
19 here.

20 **THE COURT:** I see. Very fine.

21 We will have you sworn. Raise your right hand.

22
23 (Defendant sworn in by deputy clerk.)

24
25 **THE COURT:** Okay. I'm going to first make

1 sure that I understand what's taking place today.

2 The Court has been presented with a proposed Rule
3 11 plea agreement, and I gather that the defendant
4 corporation has waived its right to indictment already?

5 **MR. MAJORAS:** Yes, your Honor.

6 **THE COURT:** Okay. And there's been an
7 arraignment conducted in the case?

8 **MR. MAJORAS:** No, your Honor.

9 **THE COURT:** So we need to arraign the
10 defendant on the information?

11 **MR. MAJORAS:** Yes, sir.

12 **THE COURT:** And then there's an expectation
13 that there will be a plea of guilty to three counts in the
14 information, is that right?

15 **MR. MAJORAS:** Yes, sir, and as to the letter
16 to the Court co-signed by myself and the prosecutor, we've
17 asked that the hearing on sentencing also be expedited to
18 today, if it's within your Honor's wishes.

19 **THE COURT:** Okay. Very fine.

20 So would you state your name for us, sir?

21 **THE DEFENDANT:** Takao Soeda.

22 **THE COURT:** And Mr. Soeda, your relationship
23 to the defendant Yazaki Corporation is what?

24 **THE DEFENDANT:** Senior managing director of
25 Yazaki Corporation.

1 **THE COURT:** And as a representative of the
2 corporation, you have been authorized, as I noticed some
3 documents submitted here, to act in relation to this case
4 on behalf of the corporation?

5 **THE DEFENDANT:** Yes, your Honor.

6 **THE COURT:** And you've had a chance to review
7 the charges in this information with your company
8 colleagues?

9 **THE DEFENDANT:** Yes, your Honor.

10 **THE COURT:** And you believe that the charges
11 are understood?

12 **THE DEFENDANT:** Yes, your Honor.

13 **THE COURT:** And you also reviewed with your
14 colleagues at the company this proposed plea agreement
15 that's been presented to the Court?

16 **THE DEFENDANT:** Yes, your Honor.

17 **THE COURT:** And you believe that you and your
18 colleagues at the corporation also understand that
19 agreement?

20 **THE DEFENDANT:** Yes, your Honor.

21 **THE COURT:** You had a chance to have all of
22 your questions answered by Mr. Majoras?

23 **THE DEFENDANT:** Yes.

24 **THE COURT:** All right. Very fine. Well, in
25 relation to the arraignment proceeding, you understand

1 sir, that the -- that the charges contained in this
2 information include three counts of conspiracy to restrain
3 trade?

4 **THE DEFENDANT:** Yes, your Honor.

5 **THE COURT:** And you understand that the
6 maximum penalty for this charge in relation to each count
7 is what counsel?

8 **MR. CRALLE:** It's a fine of up to
9 \$100 million or twice the pecuniary gain or twice the
10 pecuniary loss per count.

11 **THE COURT:** That's right. We've gone over
12 that before.

13 You understand those are the maximum penalties
14 facing the corporation upon conviction?

15 **THE DEFENDANT:** Yes, your Honor.

16 **THE COURT:** In addition, there is a period of
17 supervision, is there not, that maybe ordered as of a
18 probationary condition?

19 **MR. CRALLE:** For the corporation, I don't
20 believe so. Certainly it is within your discretion to
21 impose probation, but we have not done so. We have not
22 requested that.

23 **THE COURT:** You're not asking for that?

24 **MR. MAJORAS:** Your Honor, we would urge that
25 probation not be imposed, if I could be heard on that at

1 some later point?

2 **THE COURT:** I anticipated that, and I don't
3 see any reason at this point to seriously considered it,
4 but I thought the statute did allow for as among the other
5 penalties a probationary term of supervision, is that
6 right?

7 **MR. CRALLE:** Yes, probation.

8 **THE COURT:** And you understand that's also
9 provided for by the statute potentially?

10 **THE DEFENDANT:** Yes, your Honor.

11 **THE COURT:** Now on behalf of the corporation,
12 you have signed this Rule 11 plea agreement, is that
13 right?

14 **THE DEFENDANT:** Yes, your Honor.

15 **THE COURT:** And you've done that with the
16 authority of your employer?

17 **THE DEFENDANT:** Yes, your Honor.

18 **THE COURT:** And you understand that if the
19 Court accepts this plea agreement, you will be paying a
20 total fine for these violations in the amount of 470
21 million dollars?

22 **THE DEFENDANT:** Yes, your Honor.

23 **THE COURT:** And that fine will be spaced out
24 over a five year period with interest accruing on the
25 unbalanced balance of that 470 million from year to year?

1 **THE DEFENDANT:** Yes, your Honor.

2 **THE COURT:** And I did not notice, but I
3 assume there is a formula for calculating that interest
4 that would accrue on that balance?

5 **MR. CRALLE:** That's right. It's a statutory
6 interest amount that's calculated.

7 **THE COURT:** Does that float and vary in
8 percentages from year to year?

9 **MR. CRALLE:** Correct. The statutory interest
10 rate is calculated and is available on the government's
11 website and tracks the federal reserve interest rates.

12 **THE COURT:** All right. And you're familiar
13 with that formula, sir?

14 **THE DEFENDANT:** Yes, your Honor.

15 **THE COURT:** It is -- it is also part of this
16 agreement that the government would agree not to bring in
17 any additional charges against the corporation for events
18 up to the date of this plea agreement if the company
19 follows through on all of its promises contained in the
20 plea agreement, you understand that?

21 **THE DEFENDANT:** Yes, your Honor.

22 **THE COURT:** And in addition, the government
23 will not bring charges against named individuals employed
24 by the defendant corporation as long as they individually
25 cooperate as anticipated by the plea agreement.

1 **MR. MAJORAS:** Your Honor, if I might
2 interject, the named individuals -- there are not named
3 individuals who are subject to the cooperation and the
4 release within the plea agreement, the named individuals
5 of those who are not a part of the agreement.

6 **THE COURT:** Okay. So those are excluded,
7 those are named individuals who have already been or maybe
8 charged, is that right?

9 **MR. CRALLE:** That's correct, your Honor.
10 There are individuals named in the plea agreement who face
11 potential charges. Whether they have or have not, it's an
12 ongoing investigation.

13 **THE COURT:** I see. Okay. So this plea
14 agreement and the promises made by the defendant
15 corporation would not shield these named individuals from
16 potential prosecution as well, you understand that?

17 **THE DEFENDANT:** Yes, your Honor.

18 **THE COURT:** And you understand that while the
19 payment of this fine amount if that is adopted by the
20 Court at sentencing, would immunize, if you will, the
21 corporation from any charges for events leading up to
22 today's date. The corporation will not be shielded by
23 this agreement from potential taxes that may come due or
24 be assessed because of these occurrences, and one other
25 feature that the corporation might still -- oh, civil

1 suits --

2 **MR. CRALLE:** Correct.

3 **THE COURT:** -- might still be entertained as
4 against the corporation for what has occurred, and this
5 agreement would not protect the corporation from the civil
6 suits. Do you understand that, sir?

7 **THE DEFENDANT:** Yes, your Honor.

8 **THE COURT:** Okay. The plea agreement
9 includes a factual statement of what occurred here that
10 would give rise to crime liability on behalf of the
11 defendant corporation. Have you gone over that with Mr.
12 Majoras, and do you believe it to be accurate as it's
13 contained in the plea agreement?

14 **THE DEFENDANT:** Yes, your Honor.

15 **THE COURT:** Okay. You understand that the
16 government in this agreement has agreed, based upon the
17 cooperation received, to ask the Court to consider a
18 downward departure at the time of sentencing from the
19 guideline range as it relates to the punishment, the fine,
20 based upon that cooperation, you understand?

21 **THE DEFENDANT:** Yes, your Honor.

22 **THE COURT:** And there's a rather complex
23 formula set forth in the plea agreement by which the
24 proposed fine has been calculated. Have you gone over
25 that carefully?

1 **THE DEFENDANT:** Yes, your Honor.

2 **THE COURT:** So you understand that the --
3 that the guideline calculation first identifies the
4 culpability score, and I believe in this case it ends
5 up -- I believe the bottom line was at eight point
6 culpability score, is that right?

7 **MR. CRALLE:** That's correct.

8 **THE COURT:** And you understand how that was
9 reached, sir?

10 **THE DEFENDANT:** Yes, your Honor.

11 **THE COURT:** And you understand that then the
12 government sought to enhance for increase the amount of
13 the fine based upon the -- based upon the economic harm
14 resulting from this conspiracy that would not otherwise
15 have accounted for in the original calculation, you
16 understand?

17 **MR. MAJORAS:** Is your Honor referring to the
18 multiplier?

19 **THE COURT:** Yes, the multiplier.

20 **THE DEFENDANT:** Yes, I understand.

21 **THE COURT:** And then the government would
22 request a 30 percent reduction based upon the cooperation
23 that has been forthcoming from the corporation, you
24 understand that?

25 **THE DEFENDANT:** Yes, your Honor.

1 **THE COURT:** And that all culminates in the
2 recommendation of 470 million. You understand how that
3 was reached?

4 **THE DEFENDANT:** Yes, your Honor.

5 **THE COURT:** And as a part of this agreement,
6 you're also asking the Court to adopt both the calculation
7 as it is set forth in the agreement and the bottom line
8 punishment of 470 million dollars?

9 **THE DEFENDANT:** Yes, your Honor.

10 **THE COURT:** You have promised as part of this
11 agreement to give up a number of important legal rights
12 that the corporation would otherwise have in the case, you
13 understand that?

14 **THE DEFENDANT:** Yes, your Honor.

15 **THE COURT:** Among those rights is the right
16 to appeal the convictions and the sentence imposed by the
17 Court for this wrongdoing, as long as that sentence does
18 not exceed the 470 million dollars that's been
19 recommended, you understand that?

20 **THE DEFENDANT:** Yes, your Honor.

21 **THE COURT:** In addition, if the Court accepts
22 your plea of guilty on behalf of the corporation to these
23 charges and imposes a sentence of no more than 470 million
24 dollars as a fine to be paid, under those circumstances,
25 the plea today would be final and may not be withdrawn by

1 the cooperation as well, you understand that?

2 **THE DEFENDANT:** Yes, your Honor.

3 **THE COURT:** Of course, the most important
4 right or set of rights that the corporation is giving up
5 in order to enter to into this agreement is the right to
6 have a trial, you understand that?

7 **THE DEFENDANT:** Yes.

8 **THE COURT:** And you understand at a trial in
9 the case, the corporation would be presumed innocent until
10 proven guilty beyond a reasonable doubt?

11 **THE DEFENDANT:** Yes, your Honor.

12 **THE COURT:** And in addition, the trial would
13 take place before a jury of 12 citizens who would make the
14 decision as to the company's guilt or innocence in the
15 case, you understand that?

16 **THE DEFENDANT:** Yes, your Honor.

17 **THE COURT:** Under some circumstances, the
18 defendant corporation could waive its right to a jury
19 trial and have the Court alone make the decision, you
20 understand that?

21 **THE DEFENDANT:** Yes, your Honor.

22 **THE COURT:** Assuming that the trial would
23 take place with a jury, you understand that a decision by
24 the jury, whether it is guilty or not guilty, can only be
25 received by the Court if it is unanimously agreed upon by

1 all of the jurors hearing the case?

2 **THE DEFENDANT:** Yes, your Honor.

3 **THE COURT:** And you understand that the
4 defendant corporation would have the right to be
5 represented by counsel throughout the trial, and assuming
6 that's Mr. Majoras, he would the opportunity to cross
7 examine all the witnesses called by the government to
8 testify against the defendant at the trial?

9 **THE DEFENDANT:** Yes, your Honor.

10 **THE COURT:** And in addition, Mr. Majoras
11 would have the opportunity to ask the Court to issue
12 orders compelling other witnesses to come to court to
13 testify on behalf of the defendant if the corporation
14 wishes, you understand that?

15 **THE DEFENDANT:** Yes, your Honor.

16 **THE COURT:** You understand that the
17 corporation would have the opportunity to present its own
18 employees and representatives as witnesses in the case?

19 **MR. MAJORAS:** Yes, your Honor.

20 **THE COURT:** On the other hand, the
21 corporation could sit back and do nothing, and has no
22 obligation to submit any of its employees -- well, the
23 corporation would have the choice to sit back and do
24 nothing and require the government to prove each of the
25 elements of this charge beyond a reasonable doubt at a

1 trial, you understand that?

2 **THE DEFENDANT:** Yes, your Honor.

3 **THE COURT:** So in addition, if found guilty,
4 of course, the corporation would have the right to appeal
5 the conviction and potentially appeal the sentence ordered
6 against it by the Court based upon that conviction, you
7 understand that?

8 **THE DEFENDANT:** Yes, your Honor.

9 **THE COURT:** Okay. Well, by pleading guilty,
10 of course, there's not going to be a trial. So the -- so
11 the corporation is necessarily waiving or giving up all
12 the trial rights that we just talked about, you understand
13 that?

14 **THE DEFENDANT:** I understand. Yes, your
15 Honor.

16 **THE COURT:** Well, understanding the likely
17 consequences of this plea of guilty, and understanding the
18 rights that the corporation is giving up in order to do
19 so, is it still your wish to tender a guilty plea on
20 behalf of corporation to this charge?

21 **THE DEFENDANT:** Yes.

22 **THE COURT:** How then does the defendant
23 Yazaki Corporation plea to the charge of three counts of
24 conspiracy to restrain trade, guilty or not guilty?

25 **THE DEFENDANT:** Guilty, your Honor.

1 **THE COURT:** All right. And in relation to
2 each count, how would you like to address the factual
3 predicate from the violations?

4 **MR. MAJORAS:** Your Honor, I have worked with
5 the Mr. Soeda to put together facts that he can affirm to,
6 and because of the language issues, we would request that
7 I be able to read that and ask him to affirm.

8 **THE COURT:** All right. That will be fine.

9 **MR. MAJORAS:** We will do that separately with
10 each count, your Honor.

11 As to the first count to which it pleads, Yazaki
12 manufactured automotive wire harnesses and related
13 products in the United States and elsewhere.

14 From January 2000 through February 2010, Yazaki
15 engaged in discussions and attended meetings with other
16 producers of automotive wire harnesses and related
17 products. During those meetings and conversations,
18 agreements were reached to allocate supplies of automotive
19 wire harnesses and related products sold to certain
20 automobile manufacturers on a model by model basis, to rig
21 bids quoted to certain automobile manufacturers, and to
22 fix, stabilize and maintain the prices of automotive wire
23 harnesses and related products sold to certain automobile
24 manufacturers in the United States and elsewhere.

25 During this period, automotive wire harnesses and

1 related products sold by Yazaki, as well as payments for
2 the products, traveled in interstate and foreign commerce.
3 Yazaki's business activities in connection with the
4 production and sale of automotive wire harnesses and
5 related products were within the flow of, and
6 substantially affected, interstate and foreign trade and
7 commerce.

8 The meetings and conversations that I described
9 took place in the United States and elsewhere, and
10 automotive wire harnesses and related products that were
11 the subject of Yazaki's agreements with competitors were
12 sold to certain automobile manufacturers by the Yazaki
13 Corporation's United States subsidiary, which is located
14 here in the Eastern District of Michigan.

15 As an enterprise, Yazaki employed more than 5,000
16 individuals during the period. Yazaki's sales of
17 automotive wire harnesses and related products affecting
18 certain automobile manufacturers in the United States and
19 elsewhere totaled approximately \$2 billion during the
20 period of January of 2000 through February 2010.

21 Mr. Soeda, do you affirm the facts as I read them
22 to the Court?

23 **THE DEFENDANT:** Yes, I do.

24 **THE COURT:** All right. Thank you.

25 **MR. MAJORAS:** Your Honor, as to the second

1 count to which it pleads, Yazaki also manufactured
2 instrument panel clusters, also known as meters, in United
3 States and elsewhere.

4 From December 2002 through February 2010, Yazaki
5 engaged in discussions and attended meetings with other
6 producers of instrument panel clusters. During those
7 meetings and conversations, agreements were reached to
8 allocate supplies of instrument panel clusters sold to
9 certain automobile manufacturers on model by model basis,
10 to rig bids quoted to certain automobile manufacturers,
11 and to fix, stabilize and maintain the prices of
12 instruments panel clusters sold to certain automobile
13 manufacturers sold in the United States and elsewhere.

14 During this period, instrument panel clusters sold
15 by Yazaki, as well as payments for those products,
16 traveled interstate and foreign commerce. Yazaki's
17 business activities in connection with the production and
18 sale of instrument panel clusters were within the flow of,
19 and substantially affected, interstate and foreign trade
20 and commerce.

21 The meetings and conversations that I have
22 described took place in the United States and elsewhere,
23 and instrument panel clusters that were the subject of
24 Yazaki's agreements with competitors were sold to certain
25 automobile manufacturers by Yazaki Corporation's United

1 States subsidiary, which is located here in the Eastern
2 District of Michigan.

3 As an enterprise, Yazaki employed more than 5,000
4 individuals during the period. Yazaki's sales of
5 instrument panel clusters affecting certain automobile
6 manufacturers in the United States and elsewhere totaled
7 approximately \$73 million during the period of
8 December 2002 through February 2010.

9 Mr. Soeda, do you affirm those facts as I read
10 them?

11 **THE DEFENDANT:** Yes, I do.

12 **MR. MAJORAS:** And then, your Honor, as to the
13 third count to which it pleads, Yazaki also manufactured
14 fuel senders in the United States and elsewhere.

15 From March 2004 through February 2010, Yazaki
16 engaged in the discussions and attended meetings with
17 other producers of fuel senders. During those meetings
18 and conversations which took place in Japan, agreements
19 were reached to fix, stabilize and maintain the prices of
20 fuel senders sold to an automobile manufacturer in the
21 United States and elsewhere.

22 During this period fuel senders sold by Yazaki, as
23 well as payments for the products traveled, interstate and
24 foreign commerce. Yazaki's business activities in
25 connection with the production and sale of fuel senders

1 were within the flow of, and substantially affected,
2 interstate and foreign trade and commerce.

3 The meetings and conversations that I have
4 described took place in Japan, and fuel senders that were
5 the subject of the Yazaki's agreements with competitors
6 were sold to automobile manufacturers by the Yazaki
7 Corporation's United States subsidiary, which is located
8 in Eastern District of Michigan.

9 As an enterprise, Yazaki employed more than 5,000
10 individuals during the period. Yazaki's sales of fuel
11 senders affecting an automobile manufacturer in the United
12 States totaled approximately \$1.6 million during the
13 period of March 2004 through February 2010.

14 Mr. Soeda, do you affirm those facts as I read
15 them?

16 **THE DEFENDANT:** Yes, I do.

17 **THE COURT:** All right. Thank you, Mr.
18 Majoras.

19 The last thing that I want to make sure that is
20 understood, we've talked about the fact that if the
21 corporation elected to have a trial instead of pleading
22 guilty, it would be the government's burden to prove each
23 element of this charge of conspiracy to restrain trade
24 beyond a reasonable doubt before the corporation could be
25 convicted, you understand that, sir?

1 **THE DEFENDANT:** Yes, your Honor.

2 **THE COURT:** And in this case those elements
3 generally are that the government would first have to
4 prove that during the term identified in this information,
5 there was an illegal conspiracy underway between at least
6 two persons or entities to restrain trade by bid rigging
7 and -- or price fixing as a general means of carrying out
8 this agreement to suppress competition in the industry.
9 Do you understand that?

10 **THE DEFENDANT:** Yes.

11 **THE COURT:** And then the government would
12 have to prove secondly, that your company voluntarily and
13 knowingly entered into that conspiracy to restrain trade
14 in violation of the Sherman Anti-trust law in order to
15 suppress competition. Do you understand that?

16 **THE DEFENDANT:** Yes, your Honor.

17 **THE COURT:** Anything else that you believe
18 would be an essential element counsel that would have to
19 be proven beyond a reasonable doubt?

20 **MR. CRALLE:** Yes, your Honor. There's one
21 third element, and we would have to show that the
22 conspiracy was an unreasonable trade of interstate and
23 foreign trade and commerce.

24 **THE COURT:** Okay. And you understand that
25 element as well?

1 **THE DEFENDANT:** Yes, your Honor.

2 **THE COURT:** Now counsel, what have I missed
3 in receiving the plea today? Anything that you can think
4 of?

5 **MR. CRALLE:** Off hand, I think you did very
6 good job.

7 **THE COURT:** Thank you. Mr. Majoras?

8 **MR. MAJORAS:** No, sir.

9 **THE COURT:** The Court is satisfied that the
10 plea is voluntary, knowledgeable and accurate. The
11 elements of the charge have been established by the
12 testimony received today, and the Court is persuaded that
13 Mr. Soeda has been duly authorized by the defendant to
14 tender this plea on its behalf.

15 Accordingly, the Court will accept the plea of
16 guilty tendered to each of these counts, adjudicate the
17 defendant Yazaki Corporation guilty of the violations, and
18 we'll will turn now to the question of sentence.

19 The Court has received correspondence from both
20 sides asking the Court to consider imposing sentence
21 immediately.

22 The Court having reviewed the correspondence as
23 well as the sentencing memorandum submitted is persuaded
24 that the Court has ample information and can meaningfully
25 exercise its discretion and the application of the factors

1 that are identified at Section 3553(a) of the statute in
2 order to carry out its responsibility to impose sentence,
3 and accordingly, sees no value in requiring the
4 preparation of a Pre-Sentence Investigation Report under
5 those circumstances.

6 Accordingly, I will grant the joint request made
7 to waive the preparation of a Pre-Sentence Investigation
8 Report, and move to consideration of a sentence
9 immediately.

10 Mr. Majoras, I'm sure you've read the government's
11 sentencing memorandum, and I'm happy to take any
12 additional comments that you would like to make on behalf
13 of the defendant into account in deciding on a sentence
14 today.

15 **MR. MAJORAS:** Thank you, your Honor.

16 Mr. Soeda would like to make a brief statement as
17 well, but the company is here certainly with great regret
18 with respect to the actions that occurred that led us to
19 today's proceedings.

20 In regard to that though, the company has also
21 made significant efforts, both to undertake what's been
22 necessary to resolve these issues with the government. It
23 has cooperated fully as your Honor noted. There was a
24 significant discount that the government was able to
25 provide as a result of the cooperation that my client

1 provided in the course of this investigation. We have
2 been very active throughout essentially the last two years
3 in providing information that the government has sought
4 and information that we have voluntarily provided as part
5 of that investigation.

6 Additionally, I would like the Court to be aware
7 that the company has instituted revamped compliance
8 procedures with respect not only to the antitrust laws,
9 but also various other laws that affect a corporation the
10 size of Yazaki.

11 I've been involved in a number of representations
12 of clients and advised on programs, and it is my view the
13 program that the company has put in place is a top line
14 program for compliance involving individual instruction by
15 counsel, involving various web type of programs in which
16 individuals can observe and see in its program that's
17 going to be provided over a course of not just a single,
18 this is the law and don't break it. There's going to be
19 ongoing education.

20 Additionally, the U.S. subsidiary for Yazaki,
21 Yazaki North America, has, in fact, retained additional
22 in-house counsel with anti-trust expertise as part of her
23 background. She has been very active in working with the
24 company in providing those compliance programs.

25 Finally, your Honor, I will note that certainly

1 the fine that the company has agreed to is a very
2 substantial fine in this case. The company has likewise
3 agreed to various substantial obligations for ongoing
4 cooperation with the government. It is engaged in doing
5 that and intends to be engaged in doing that until the
6 government deems that the cooperation is no longer
7 necessary.

8 As a result of this significant the fine and the
9 ongoing cooperation, the fact that it will be reminded
10 very clearly of its transgressions on a year to year basis
11 until the fine is paid, we ask that probation in this case
12 not be ordered as being unnecessary in light of those
13 facts.

14 **THE COURT:** All right. Thank you very much,
15 Mr. Majoras.

16 On behalf of the government, what would you like
17 to address to the Court?

18 **MR. CRALLE:** Your Honor, I have nothing
19 further than what's in the papers.

20 **THE COURT:** Thank you, Mr. Cralle.

21 Mr. Soeda, what would you like to say to the Court
22 before sentence is imposed.

23 **THE DEFENDANT:** Yes, your Honor.

24 Yazaki Corporation sincerely regrets the actions
25 that led to this proceeding today. We have thoroughly

1 reviewed our corporate compliance programs and have taken
2 extensive new steps to ensure future compliance with the
3 anti-trust laws. We have also cooperated to our fullest
4 extent with the Department of Justice's in this
5 investigation.

6 The company accepts full responsibility for its
7 unlawful conduct. We acknowledge that this conduct merits
8 punishment, and our agreement to accept a fine of this
9 magnitude demonstrates the seriousness of our offenses,
10 and extent to which we have accept the seriousness of the
11 consequences.

12 We respectfully ask that the Court impose a
13 sentence and fine recommended by the prosecutor and as set
14 forth in the plea agreement.

15 **THE COURT:** All right. Thank you, sir.

16 All right. Well, the Court has had the
17 opportunity to review, as I indicated, the sentencing
18 memorandum submitted by the government, and I understand
19 Mr. Majoras that you're in agreement with both the
20 calculation of the guideline range, as well as the request
21 made, the application of the multiplier, as well as the
22 departure from the range that is recommended by the
23 government in its ultimate request for sentence, is that
24 right?

25 **MR. MAJORAS:** Yes, your Honor.

1 **THE COURT:** That as we touched upon during
2 the plea proceeding, it begins with a calculation of the
3 base fine provided by the guideline provision at
4 2R1.1(d)(1), which is 20 percent of the affected volume of
5 commerce or as expressed in dollars, \$422.6 million.

6 The culpability score which is to be determined
7 pursuant to the guideline position at 8C2.5(a) is five.
8 That is adjusted upwards because of the number of
9 employees of the defendant corporation, which exceeds
10 5,000 employees. Five points are added, which brings to a
11 subtotal of 10 points assessed.

12 Then given the defendant's cooperation, the
13 guidelines would adjust the culpability score downwards by
14 two points resulting in a final culpable score of eight.

15 The fine range is determined by the application of
16 a minimum or maximum multiplier under the guideline
17 provision 8C2.6, and in this instance given the base fine
18 of 422.6 million and the culpability score of eight, the
19 fine range resulting is 676.1 million to \$1.35 billion.

20 The government then makes its motion for downward
21 departure, which the Court finds to be adequately
22 supported in connection with the request, which is
23 endorsed, of course, by the defendant and its counsel as
24 well, and in connection with that and the assistance
25 provided to the government in its investigation and the

1 prosecution of this defendant and others, the
2 recommendation by the government is a departure of
3 30 percent from the low end of that guideline range to
4 represent a fair and reasonable sentence in the amount of
5 \$470 million.

6 The Court has first been persuaded that the
7 departure request is adequately supported by the papers
8 filed here, and that the percentage of the departure
9 represents the government's assessment of the value of
10 that cooperation. I don't have any reason based on what's
11 been submitted to think that percentage is unreasonable,
12 in light of the experience in general that's been had by
13 this Court with the level of reductions imposed in other
14 matters based upon assistance from a defendant to the
15 government in those cases.

16 In addition, the Court needs to assess whether the
17 recommended sentence is one that satisfies the objectives
18 of the sentencing statute in Section 3553(a). The Court
19 is to consider the general seriousness of the offense and
20 the -- and the harm occasion by the violation, as well
21 as -- as well as the background characteristics of the
22 offender in the commission of the violation.

23 Here the harm is pretty obvious, and it's going
24 to -- the fine amount of 470 million is certainly a
25 reflection, and I think fairly representative of the

1 magnitude of the harm occasion. In some extent that harm
2 is hard to quantify as expressed in the memorandum
3 received by the government because of the -- because of
4 the far reaching effects, the impact, just not on the
5 supply market and the number of companies should be
6 competing in that market, but on consumers as well.

7 Because this agreement only encompasses the
8 consequences for the defendant criminally, and because
9 the -- and because civil suits have been filed and will be
10 vigorously prosecuted as well, the Court is persuaded that
11 the ultimate economic impact on this defendant will be
12 very much proportionate to the harm that could be
13 reasonably attributed to the behavior.

14 Accordingly, the Court is satisfied that the
15 misconduct in this case is fairly accounted for in the
16 recommended sentence that's been recommend to the Court.

17 Also, as it relates to the second of the statute
18 factors relating to the need for a given sentence to deter
19 this defendant from future violations, and the need to
20 deter others companies from committing similar violations
21 in the future, again, the size of this fine, and the many
22 consequences that go even beyond the fine imposed here, I
23 think will be quite sufficient to deter the company from
24 making this mistake in the future, and will deter others
25 from repeating the mistake as well.

1 This is also indicated by the corporate compliance
2 policies that have been reviewed and modified to void
3 mistakes like this in the future as well.

4 The remaining factors under the statute I think
5 are all satisfied substantially by the proposed sentence,
6 and there will be no great value achieved by exceeding the
7 fine recommended for the factors that I discussed in more
8 detail, or the remaining factors that are -- none of which
9 would mitigate in favor of a more severe fine.

10 That fine is going to be therefore, adopted by the
11 Court as an the penalty in this case.

12 Accordingly, and pursuant to the Sentencing Reform
13 Act of 1984, the Court will order the defendant Yazaki
14 Corporation to pay a total fine in the amount of \$470
15 million, payable in the following manner: Within 45 days
16 of today's date, the company shall pay the amount of
17 \$78,333,333.33, plus any accrued interest within 45 days.
18 Then an equal amount payable at the one year anniversary
19 of this sentence, a like sum at the two year anniversary
20 of this sentence, again the same sum at the three year
21 anniversary of this sentence, and again at the fourth and
22 fifth year anniversaries of this sentence, and each of
23 those installments payments of \$78,333,333.33 will be
24 payable along with any accrued interest on the remaining
25 balance at the rate that was discussed here earlier as

1 provided by statute, and determined by calculation that
2 formulated -- is that determined by the Department of
3 Treasury?

4 **MR. CRALLE:** Yes, your Honor. The interest
5 rates do follow the treasury.

6 If I could make one note, the final payment is
7 slightly different. It is 35 cents as oppose to 33 cents,
8 a slight variation.

9 **MR. MAJORAS:** And your Honor, I apologize to
10 interrupt as well, but if we could make pursuant to the
11 order that the Court issues, the company has already made
12 arrangements with the clerk's office to pay by way of wire
13 transfer, and I have found that as helpful if it is in the
14 order that recognizes that payment will be made by wire
15 transfer.

16 **THE COURT:** Okay. We will add that to the
17 judgment entered today, and the Court's sentence will not
18 include a term of probation as permitted by statute, given
19 the fact that the cooperation which is agreed upon will be
20 ongoing and the payment schedule is ongoing to this five
21 year period. The Court sees no reason to impose a
22 probationary sentence.

23 The Court will not be ordering any restitution in
24 this case as well based upon the agreement and the
25 recognition that the civil litigation is going to be

1 addressing the elements of restitution I'm sure quite
2 amply.

3 Anything else that you believe -- is there a
4 special assessment?

5 **MR. CRALLE:** Special assessment of 400 per
6 count.

7 **THE COURT:** The Court will order a special
8 assessment in the amount of \$400 times three -- 400 in
9 relation to each count, and is there anything else that
10 you can think of?

11 **MR. CRALLE:** No, your Honor.

12 **MR. MAJORAS:** No, your Honor.

13 **THE COURT:** The Court then will impose the
14 sentence as I stated it on the record, and I won't be
15 advising the defendant of a right to appeal inasmuch as I
16 accepted the Rule 11 agreement in this case which waives
17 the right to appeal the conviction and sentence.

18 Anything else before we adjourn?

19 **MR. MAJORAS:** Nothing here, your Honor.

20 **THE COURT:** Very fine. Well, thank you for
21 having resolve the matter, and I'll get our judgment out
22 today certainly.

23 **MR. MAJORAS:** Thank you, your Honor.

24 **MR. CRALLE:** Thank you.

25 **THE COURT:** Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Proceedings concluded.)

- - -

C E R T I F I C A T I O N

I, Ronald A. DiBartolomeo, official court reporter for the United States District Court, Eastern District of Michigan, Southern Division, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a correct transcript of the proceedings in the above-entitled cause on the date hereinbefore set forth.

I do further certify that the foregoing transcript has been prepared by me or under my direction.

Ronald A. DiBartolomeo, CSR
Official Court Reporter

Date

- - -